

Land Use and Development

2

Planning Permits, Review Process and Enforcement

Planning in San José




encourages development or improvement of land and structures in accordance with the major strategies, goals, and policies of the *General Plan*. It also ensures that projects conform to all relevant state and local regulations and policies. Finally, it provides opportunities for community participation in land use and development decisions.

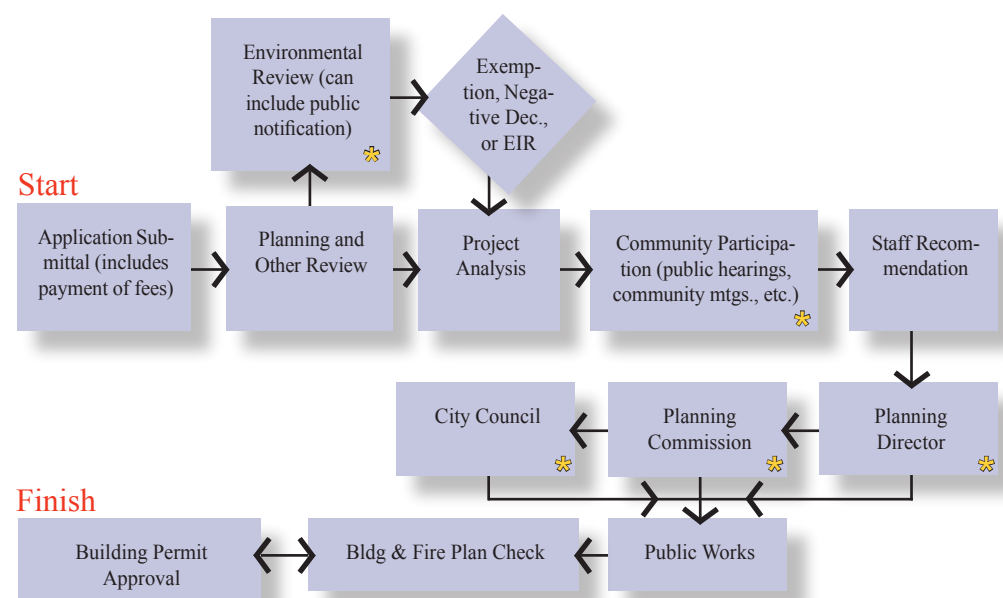
A wide range of both private and public projects are included in this process. Examples include smaller projects, such as improvements to the exterior of a house, and larger projects, such as the development of a new housing tract, a shopping center, an industrial area, a public facility, or a park.

This section of the *Guide* provides an overview of the land use planning and development process. It is intended for use by those working on their own projects, as well as for those who are interested in participating in planning decisions in their community.

Process Steps

Project review is an essential part of the land use and development process. The chart below gives a basic description of the steps involved. It is important to note that not every project will involve all of the steps.

 Please also refer to the “Additional Resources” section of this guide (Section 3) for information on neighborhood groups, Planning Commission and City Council meetings, and steps for effective meeting participation.




 Opportunity for community participation

Land Use and Development Review Process Overview

A Community Guide

For More Information

This section of the *Guide* is intended to give only a broad overview of the land use and development process; always check with those staffing the Public Information Counter if you have questions about a specific project or are considering any changes to your property (telephone: 408-535-3555). Before visiting the Counter in person, one can call to confirm location and hours of operation.

 For more information on the planning process, specific projects, or property information, contact the Public Information Counter (telephone: 408-535-3555).


In addition to responding to in-person and telephone inquiries, the Department of Planning, Building, and Code Enforcement maintains a website that includes information about the land use and development process (<http://www.sanjoseca.gov/planning>). Some of the information available on the website includes:

- Lists of recently submitted and pending project applications;
- *General Plan* and zoning information for parcels;
- Downloadable versions of application forms; and
- The fee schedule for application filing fees and Public Works review.

Land Use and Development Permits

There are several dozen applications processed by the Department of Planning, Building, and Code Enforcement for various types of land use and development requests. Generally these requests fall within three different land use action categories: ministerial permits, discretionary minor permits and discretionary major permits.

A **ministerial action** is when a decision maker, such as a City staff member or a public official, applies the law to the facts as presented, but uses little or no personal judgment in the decision process. Ministerial actions include the review of building permits and business licenses.

 It is also wise, when buying property or a building, to review the permit history with staff at the Planning Public Information Counter.

A **discretionary action** is when a decision maker, such as a City staff member or a public official, can use his or her judgment in deciding whether and how to carry out or approve a project. Only discretionary actions (decisions) can be appealed. Discretionary actions can be divided into two types of permits:

- *Minor permits* are often issued for smaller projects or projects located in developed areas. Typically, these applications require no public hearing.
- *Major permits* are for more complex projects with a broader



The new San José Civic Center on Santa Clara Street is an example of a project requiring a major permit and CEQA review.

geographic interest to the public. These permit applications involve a more extensive level of analysis and require a public hearing.

2-1. Major Permits

The following is a summary of the typical major permit application process. Most of the steps are applicable to each type of major application; however, both the CEQA process and the public hearing process may vary a little, depending upon project type. Consult with the Planning staff to determine which process would be applicable to your project.

i Depending on the level and extent of environmental review, the application may have to go to a higher hearing body for consideration. Discuss the required level of public hearing with a planner for each project.

i A copy of *City Council Policy 6-30, Public Outreach Policy*, can be found on the City's website, or a copy can be obtained from the City Clerk's office.

1. Preliminary Review (Optional)

Before the applicant files the application, a preliminary review is recommended for most projects. A project manager will review the proposal and can point out many of the potential problems that may affect or delay the application, as well as provide other useful information to the applicant. Preliminary review is a voluntary step that allows a proposed project to be reviewed prior to going through the formal application process. A preliminary review allows the applicant to become familiar with the City's codes, policies and development review processes and how they will affect the project. Preliminary review also can help reduce the time and money spent on revising plans to meet City standards before going to a public hearing.

2. Application Filed by Applicant

The applicant files a formal application and pays the necessary fees. For most applications, a well-drawn set of plans is necessary as part of the application submittal in order for the formal review process to begin. All newly-filed applications are posted on the Department's

	Preliminary Review (Optional)	Application Filed by Applicant	City Staff Review	Environmental Review (CEQA)	Notice of Public Hearing	Director's Public Hearing	Planning Commission Public Hearing	City Council Public Hearing	Building, Public Works or Other Permits
Annexation & Pre-Zoning	X	X	X	X	X	N/A	X	X	May Be Required
Rezoning	X	X	X	X	X	N/A	X	X	May Be Required
Zoning Protest	N/A	X	X	X	X	N/A	N/A	X	May Be Required
Planned Development Permit	X	X	X	X	X	X	Decision May Be Appealed to Planning Commission	N/A	May Be Required
Site Development Permit	X	X	X	X	X	X	Decision May Be Appealed to Planning Commission	N/A	May Be Required
Conditional Use Permit	X	X	X	X	X	N/A	X	Decision May Be Appealed to City Council	May Be Required
Development Variance	X	X	X	X	X	X	Decision May Be Appealed to Planning Commission	N/A	May Be Required

A Community Guide

website and are available for public review.

3. City Staff Review

The application is reviewed by the Department of Planning, Building, and Code Enforcement. Other City departments (which may include Police, Fire, Public Works, and Transportation) and outside agencies (e.g. Caltrans, the Valley Transportation Authority, and the Santa Clara Valley Water District) also review the project application for compliance with health and safety standards.

4. Environmental Review (CEQA)

Besides meeting *General Plan* policies and development standards, most projects must receive an environmental clearance. State law requires a separate assessment of every project's environmental impacts through the environmental review process. Applications for environmental review must therefore accompany each major application request. Both forms can be obtained from the Department of Planning, Building, and Code Enforcement.

5. Notice of Public Hearing/Public Input

Once the review process is completed, the applications are set for hearing. All major permits require an open hearing that allows the public to provide input. Please refer to *City Council Policy 6-30, Public Outreach Policy*, for a full description of the City's public notification procedures. Generally, a notice of the public hearing is sent to all property owners and residents within 500 feet of the project site. (A smaller or larger radius may be used, depending upon the project type and/or scale.) The public notice will provide a brief description of the project, the project address, the project contact, and the date of the public hearing. This provides the public an opportunity to learn about the project, to provide input, and to participate in the public hearing process.

6. Director's Public Hearing (Decision Maker)

Some major permit applications are forwarded with recommendations from City staff to the Director of Planning, Building, and Code Enforcement for a decision. The Director conducts a public hearing to receive input from members of the community prior to issuing a decision. The Director's decision is subject to appeal to the Planning Commission.

7. Planning Commission Public Hearing (Decision Maker)

For some major permits, the Department of Planning, Building, and Code Enforcement forwards a recommendation to the

Planning Commission that is based upon a review of the project for conformance to the *General Plan* and other related laws and regulations. The Planning Commission's public hearing provides the applicant and neighboring residents an additional opportunity to voice their opinions. The Commission acts upon conditional use permits, environmental impact reports, and appeals of Planning Director decisions. The Commission also provides a recommendation on rezoning and *General Plan* amendment applications to the City Council, as well as on proposed Zoning Ordinance changes.

8. City Council Public Hearing (Decision Maker)


The City Council makes the final decision on legislative acts such as rezoning or *General Plan* amendments. The City Council's public hearing provides the applicant and neighboring residents an opportunity to voice further opinions. The City Council approves the project with conditions of approval or denies the project.

9. Other Permits and Fees

The Department of Planning, Building, and Code Enforcement may require additional permits and fees, including improvement fees and any required by Public Works and the Building Division.

Permit Appeal

Once a decision has been made by a decision maker, it may be appealed to the next hearing body level. Only discretionary actions (decisions) can be appealed. If the final decision is made at the City Council level, there is no appeal process.

 For more information on the permit appeal process, contact the Public Information Counter (telephone: 408-535-3555).

1. Qualifications for Appeal: The applicant, or any property owner or tenant of a property within 1,000 feet of the subject site, may appeal a development permit, development variance, use permit, or a development exception. For a Tree Removal Permit, property owners or tenants/occupants of the subject site, or property owners or tenants/occupants of properties immediately adjacent or across the street from the subject site, may appeal. For tentative subdivision maps, the subdivider or any interested party may appeal.

2. Notice of Permit Appeal Submitted by Appellant to the City: A complete Notice of Permit Appeal must be filed on or before ten calendar days after a copy of the initial decision by the Planning Director or the Planning Commission has been mailed to the applicant.

A Community Guide

3. Planning Staff Review: The Permit appeal is reviewed for completeness, and a public hearing date is set. City staff prepare a recommendation for the appropriate decision-making body.

4. Planning Commission Public Hearing (Decision Maker): If a decision by the Planning Director is appealed, the Planning Commission would consider and act upon the appeal. The Planning Commission's public hearing provides the applicant and neighboring residents an opportunity to voice their opinions. If the appeal is denied, the decision is final. If the appeal is granted, the decision shall be effective immediately.

5. City Council Public Hearing (Decision Maker): If a decision by the Planning Commission is appealed, the City Council would consider and act upon the appeal. The City Council's public hearing provides the applicant and neighboring residents an opportunity to voice their opinions. If the appeal is denied, the decision is final. If the appeal is granted, the decision shall be effective immediately.

Examples of Major Permits and Processes

Depending on the project type, one or more of the following permits and/or processes may be required:

Annexation and Pre-Zoning: Annexation is the process of incorporating land from other jurisdictions (typically, the County of Santa Clara) into the City of San José. Land may be annexed to the City if it is inside the Urban Service Area and within 300 feet of City boundaries, as measured along a public right-of-way. When land is annexed to the City, it is detached from special districts, such as fire or sanitation districts. Approval for the annexation of unincorporated property outside the Urban Service Area must first receive approval from the Local Agency Formation Commission (LAFCO). A reorganization (annexation) petition, which includes a grant deed, a legal description and an associated map is required.

Typically a pre-zoning application is also required. Pre-zoning is a procedure that establishes zoning for a parcel prior to its annexation. A prezone does not become effective until the property is annexed to the City of San José.

Staff at the Public Information Counter are able to disclose a property's present *General Plan* designation by looking up the property address or the county Assessor's Parcel Number (APN).

LAFCO is the Local Agency Formation Commission, which state legislation empowers to govern changes in the boundaries and organization of cities and special districts.

The Urban Service Area is the area in the City where urban services are, or will be, available to serve urban development.

Rezoning: A property's zoning designation can be changed to an established, conventional zoning district or through the Planned Development (PD) rezoning process. Frequently, proposals for rezoning involve projects that are complex or that require specific land use controls to ensure compatible development. In these cases, a Planned Development zoning may be required. Each PD zoning district is separate and unique. This allows the zoning to be fine-tuned to the particular characteristics of each property and neighborhood.

The rezoning process requires several public hearings that include input from the community. A typical rezoning that already conforms to the *General Plan* does not have to go to the Planning Commission for consideration, only to the City Council. Planned Development zonings are required to go to both the Planning Commission and the City Council. Before an applicant considers rezoning a property, he or she should contact the Department of Planning, Building and Code Enforcement to see if the zoning request is consistent with the property's *General Plan* designation. If it is inconsistent, the City will not approve the zoning application unless the *General Plan* designation first is amended.

Property normally is zoned upon petition to Planning, Building, and Code Enforcement by private property owners. Occasionally, the City Council or the Planning Director will initiate a rezoning of property when a zoning district is out of context with the neighborhood land use pattern and the *General Plan* land use designation.

Zoning Protest: The Zoning Ordinance establishes procedures for zoning protests. Any property owner within the protest line (the boundaries of the site that is being rezoned) can protest a rezoning. However, a majority of property owners along the protest line must file a protest for it to proceed. Please see the application for filing a zoning protest on the City's website and check the zoning ordinance for more details.

Site Development Permits: The San José Municipal Code specifies land development requirements for each zoning district. Site Development Permits are land development permits issued for all zoning districts other than a Planned Development (PD). Their purpose is to make sure that each project conforms to the Zoning Ordinance and City policy. There are separate design guidelines for industrial, commercial and residential developments.

A Community Guide

A Site Development Permit is required to construct, enlarge, or install a building or a structure. Any exterior alteration, pavement of a lot, or underground installation requires a permit. A Site Development Permit Amendment allows for the amendment of an existing Site Development Permit.

The Site Development Permit process, including a public hearing by the Director of Planning, Building, and Code Enforcement, allows the City to review the proposed project and ensure that the proposed project is functionally and architecturally compatible with adjacent structures, as well as to place conditions on the permit that would enhance the project and reduce any effects on surrounding properties. The permit process also allows the public an opportunity to voice their opinions about the proposed project.

Planned Development Permits: For development within a Planned Development zoning district, a Planned Development Permit is necessary to implement the zoning and to allow the issuance of Public Works clearance and Building Permits. The Planned Development Permit application process, similar to the Site Development Permit process, reviews the proposed project's site planning, building design, landscaping, circulation, signage, and other development requirements. Planned Development Permit applications require a public hearing by the Director of Planning, Building, and Code Enforcement.

Conditional Use Permit: San José is divided into three basic types of zoning districts: residential, commercial and industrial. The Municipal Code specifies uses and conditional uses allowed in each zoning district. Conditionally-allowed uses require a property owner to obtain a Conditional Use Permit from the City before that use can occur on the property.

The Conditional Use Permit process allows the City to review the proposed use and determine whether the site is appropriate for that type of activity, as well as to place conditions on the use that would enhance the project and reduce any possible negative effects on surrounding properties. It also allows members of the public an opportunity to voice their opinions about the proposed use. Conditional Use Permits require a public hearing by the Planning Commission.

Check the City's zoning under specific zoning districts or contact the Public Information Counter of the Department of Planning, Building, and Code Enforcement to find out if a project requires a Conditional

The main objective of Site Development Permits is to ensure that the proposed project is functionally and architecturally compatible with adjacent structures.

Site Design: Addresses yard size, garages, parking, circulation, driveways, building setbacks, and landscaping.

Building Design: Addresses architecture, materials, building height, bulk, and size.

Public Improvements: Addresses public sidewalks, curbs, gutters, and sewers.


Minor alterations to a detached single-family home does not require issuance of a Site Development Permit, but may require a Single-Family House Permit.

Conditional uses are only allowed with the approval of a Conditional Use Permit. Typical examples include:

- Churches/religious assembly
- Drinking establishments
- Drive-up businesses
- Emergency shelters
- Entertainment establishments
- Operations past midnight
- Residential service/care facilities
- Utilities
- Wrecking yards

A project site must be able to accommodate both the proposed use and the proposed facility. The Conditional Use Permit process will review the adequacy of the following:

- Parking
- Building size
- Noise level
- Landscaping
- Hours of operation
- Building placement
- Access to streets and utilities
- Traffic generation
- Expiration date of permit

 Properties located within Planned Development zoning districts (PD) are not eligible for development variances. The PD zoning allows for certain deviations from the Municipal Code requirements.

Use Permit.

Development Variances: A development variance allows for an exception when the strict application of the zoning standards would result in a hardship because of the unique characteristics of the property that are not present on the surrounding properties within the same zoning district. The development variance procedure allows the City to review the unusual or unique circumstances of a property, such as an irregular lot shape, that may justify granting the variance. It also gives members of the public an opportunity to voice their opinions on the project at a public hearing. Variance applications require a public hearing by the Director of Planning, Building, and Code Enforcement.

2-2. Minor Permits

A number of minor land use permits are routinely handled at staff level, although some do require public hearings. Minor development applications do not require an appointment for submittal.

Minor Permit and Service Process

1. Application Filed by Applicant

An applicant may apply by submitting the appropriate applications and fees at the Public Information Counter.

2. City Staff Review (Decision Maker)

The application is reviewed by Department of Planning, Building, and Code Enforcement. Other City departments also review the application for compliance with health and safety standards. The Planning Director makes the decision and can approve, conditionally approve, or deny the permit.

3. Appeal Process

While there is no appeal process for most of these permits and services, the decision of the Planning Director occasionally may be appealed to the Planning Commission. Check with the Department for exceptions.

4. Other Permits and Fees

Other permits and fees may be required; check with the Department of

A Community Guide

Planning, Building, and Code Enforcement.

Examples of Minor Permits and Services

Depending on the project type, one or more of the following types of permits and processes may be required:

Alcoholic Beverage Control (ABC) License Verification:

This application is a zoning affidavit for properties requiring proof of zoning to the California Department of Alcoholic Beverage Control in order to sell liquor.

Basic Zoning and General Plan/Massage/Reconstruction of Legal Nonconforming Use Letter Application: This application is used for several purposes. An applicant can request a letter that verifies the zoning and *General Plan* designations for a property or confirms that a special use is legally nonconforming. This verification often is required by lenders. This application also is necessary in determining whether massage uses are permitted on a particular property.

Comprehensive Research Letters (CRL): This application is to request comprehensive planning research for a specific property or properties.

Department of Motor Vehicles (DMV) Verification: This application provides conformation of zoning status for the California Department of Motor Vehicles as to what type of auto use (sales, type of vehicle, etc.) is allowed on a specific property.

Historic Landmark Nomination Form: This application requests the nomination of a property for Historic Landmark status.

Historic Preservation Permit: This application is a request for any exterior work to be performed either on a designated City Landmark or in a City Historic District.

Legal Nonconforming (LNC) Verification: This application is to provide a letter of proof by the Department of Planning, Building, and Code Enforcement of legal nonconforming verification.

Liquor License Exception Permit: An Exception Permit is required for liquor license applicants that have been denied or that may be denied by the Department of Alcoholic Beverage Control (ABC). If

the applicant wishes to request an exception for a determination of “public convenience or necessity” by the City, a Liquor License Exception Permit must be submitted, and a public hearing also is required.

Lot Combining: This application requests the combination of two or more properties (lots). This request requires a public hearing.

Lot Line Adjustment: This application requests the adjustment of a property lot line.

Permit Adjustment: This application requests the adjustment of an existing permit for minor changes to the site, building, or conditions.

Power Generation Facility Administrative Permit: This application requests stand-by or backup power generation facilities.

Reasonable Accommodation Process and Request: In conformance with state law, the City strives to provide reasonable accommodation for persons with disabilities in the application of its zoning, laws, policies and processes. An accommodation request will require assessing the reasonableness of the requested accommodation.

Research Request Form: This application is to request research of four or more project files.

Sidewalk Café Permit: This application is a request to allow a sidewalk café in the public right-of-way. Sidewalk regulations are established in the San José Municipal Code to encourage sidewalk cafés and to provide the creation of a more urban pedestrian environment. This request requires a public hearing.

Sign Permit Adjustment: This application is a request to allow an adjustment of an existing sign permit.

Single-Family House Permit: A Single-Family House Permit may be required for new construction or the remodel of a single-family house.

A Single-Family House Permit is required if the house (new construction, remodeling or new addition) meets any of the following criteria:

- If it exceeds 30 feet or two stories in height; or

A Community Guide

- If the floor area ratio (FAR) of the house exceeds .45; or
- If the house or site is a designated City Landmark; or
- If it is listed on the City's Historic Resources Inventory; or
- If it is in a Historic District; or
- If it is in a Historic Conservation Area.

If a Single-Family House Permit is not required, the applicant may proceed to the Building Division for Building Permits.

Temporary Trailer Administrative Permit: This application is to allow a trailer, modular unit or other mobile, prefabricated structure of 2,000 square feet or less in floor area for a temporary period up to one year.

Tree Removal Permit: This application is a request to remove a tree on private property having a main stem or trunk which measures fifty-six (56) inches or more in circumference at a height of twenty-four (24) inches above natural grade slope, or to request the removal of a multi-trunk tree with the sum of the circumference of the trunks totaling fifty-six (56) inches or more at a height of twenty-four (24) inches above natural grade slope. This permit application requires a public hearing. This permit does not apply to trees in the public right-of-way (e.g. trees planted between the curbs and the back of the sidewalk). For trees located in the public right-of-way, contact the Department of Transportation (telephone: 408-277-2762).

Utility Structure Administrative Permit: This application is a request to allow a utility structure on a property. A "utility structure" shall mean anything except an antenna or utility pole, which a provider constructs or places at a site, and is attached or affixed to something having a permanent location on or under the ground which is used to provide its services to customers.



Single-Family design guidelines have been developed for use by homeowners, builders, architects, and other designers to address issues specifically related to neighborhood character and compatibility. These guidelines are available for purchase at the Department of Planning, Building, and Code Enforcement.

2-3. Subdivisions

Most subdivisions of property require approval from the Department of Planning, Building, and Code Enforcement and/or the Department of Public Works. Subdividers may be required to file one of three maps, depending on the type of subdivision:

Parcel Map: For a simple subdivision into two, three, or four lots; processed by Public Works when a tentative map is not required.



Condominium projects normally are considered subdivisions.

i Check with the Department of Planning, Building, and Code Enforcement to find out which map(s) are required for your project.

Certain subdivisions, such as lot line adjustments and conveyances to and from public entities and public utilities, are exempted from the subdivision map approval requirements.

*A **tentative map** is a map that shows the design and improvement of a proposed subdivision and the existing conditions in and around it.*

Parcel maps, tentative maps, and final maps must be prepared by a licensed land surveyor or a registered civil engineer.

Tentative Map and Parcel Map: For a subdivision into two, three, or four lots when a tentative map is deemed necessary to protect or preserve the public health, safety and welfare. Some examples include:

- A residential condominium project;
- A project in a geologic hazard zone or in a state seismic landslide hazard zone;
- A project in a Planned Development zone that did not anticipate this subdivision; and
- A project requiring the preparation of a traffic report.

Tentative Map and Final (Tract) Map: For a subdivision into five or more lots.

Parcel Map Approval Process

Parcel map approval is handled by the Department of Public Works and approved by the Director of Public Works.

1. Application Filed by Applicant: An appointment is recommended for a parcel map application submittal. For an application that has not undergone a tentative map approval process, a site plan and a completed Exemption from Environmental Review Application are necessary, in addition to other required documents. Please check the Public Works website (<http://www.sanjoseca.gov/publicworks>) for more information.

2. Technical Review: A City project engineer reviews maps for compliance with tentative map conditions (where applicable), the *General Plan*, the current zoning ordinance, and other planning requirements.

3. City Engineer Approval: Within 20 days of receiving the application, the Director of Public Works will:

- Review the map for conformance with the Map Act, City ordinances, and the tentative map (if required);
- Approve the map; or
- Return the map to the applicant for revision. The applicant returns the revised map to the City Engineer for approval. When acceptable, the City Engineer will approve the map and have it recorded.

A Community Guide

Tentative Map Approval Process

Tentative map approval is handled by the Department of Planning, Building, and Code Enforcement and approved by the Planning Director. Processing consists of the following steps (also see the Major Permits Subsection of this guide):


- 1. Preliminary Review (Optional)**
- 2. Application Filed by Applicant**
- 3. City Staff Review**
- 4. Environmental Review (CEQA)**
- 5. Noticing of Public Hearing/Public Input**
- 6. Planning Director's Public Hearing (Decision Maker)**
- 7. City Council Appeal (If Needed)**


Before submitting the application, the applicant should ensure that the proposed subdivision conforms to existing or proposed *General Plan* and zoning designations and meets the setbacks, minimum lot size, access, frontage and other design requirements. It is also important to obtain necessary approvals and clearance, such as the parkland requirement and geologic hazard clearance.

The subdivider can choose to file a vesting tentative map, which is a type of tentative map that grants the right to develop the project based on the regulations and policies in effect when the complete application is accepted. The applicant should consult with the Department for further information.

The Director of Planning, Building, and Code Enforcement approves, conditionally approves, or denies the tentative map based on staff recommendations and input from the public. The Director may deny a tentative map application for the following reasons:

- The tentative map is prohibited by any ordinance, statute, law or other valid regulations;
- The subdivision is likely to cause environmental damage or create serious health and safety problems;
- The site does not provide adequate access, water supply, fire protection, or sewage or drainage facilities;
- The design does not conform to the Zoning Ordinance and the *General Plan* or violates the setbacks, minimum lot size, or frontage requirements,
- The site conflicts with public easements; or
- The tentative map fails to comply with the requirements of San José Subdivision Ordinance or California's Subdivision Map Act.

 Plan ahead for a tentative map extension. It takes up to eight weeks to process. An expired map cannot be renewed without filing a new tentative map and paying all applicable fees again.

 For further information on subdivisions, please refer to San José Municipal Code Title 19 or contact the Public Information Counter.

Tentative Map Validity and Extension: An approved tentative map is valid for 30 months, within which the subdivider must file a parcel map or a final (tract) map with Public Works after the stated conditions are satisfied. An expired map is automatically terminated. The Planning Director may grant a two-year extension that can be extended once for an additional one year. An extension denial may be appealed to the City Council within 15 days.

Final (Tract) Map Approval Process

Final map approval is handled by Public Works and approved by the City Council. Information on the final map approval process is available through the Department of Public Works.

2-4. Building Permits

The Building Division of the Department of Planning, Building, and Code Enforcement oversees private construction for the purpose of protecting the safety of San José's citizens and facilitating the City's economic development objectives. It issues building, plumbing, mechanical, and electrical permits for all private development in the City and makes all related inspections. All permits can be obtained at the Building Division's One-Stop Permit Center.

Most projects require permits before work can begin. However, works that are cosmetic in nature, such as painting and trim work, do not require building permits. Permits or clearance from other departments or agencies may be required.


Although the permit approval process may vary for each project, it generally consists of the following steps:

- 1. Building Plan Review**
- 2. Permit Issuance**
- 3. Inspections**

Building Plan Review

Applicants can obtain some permits for residential projects with four or fewer units without plan reviews. If no other departmental approvals are necessary, these permits are available:

- Over the Internet, through the Building Division's Permit

 To make an appointment for Building Division submittal or plan review, call (408) 535-3555.

A Community Guide

Online website (<http://www.sjpermits.org>);

- Through the mail; or
- In person at the Building Division Permit Center. No appointment is necessary.

Appointments are required for most permit application submittals and plan reviews. Some projects may qualify for Express Plan Check. This process is reserved for less complex residential, commercial, and industrial projects. The review takes approximately one hour. At the end of the review, the applicant may receive a permit or a list of required revisions.

The Building Division recognizes that it might not always be able to meet applicants' required time demands; therefore, the City allows third-party plan reviews. This service does not substitute for the Division's plan check, but it could expedite the approval process. Applicants must pay plan check fees and submit required plans and documents to the Building Division before submittal to third-party consultants.

Plan Check Validity and Extension: Plan check applications are valid for 180 days following the date of application and may be extended for an additional 180 days. If a plan is approved, the extension is valid for an additional 180 days from the date of plan approval. If a plan check or plan approval is expired, new sets of plans must be resubmitted and reviewed.

Approvals and Clearance: As part of the review, Building Division staff will coordinate and ensure that applicants have obtained the necessary clearances from Planning, Public Works, Fire, and outside agencies.

Permit Issuance

The Building Division's plan review process results in a set of comments with required corrections. Once all corrections are made, the plans are approved for permit issuance. A permit authorizes the applicant to request the inspection services required to obtain a final approval.

Permit Validity and Extension: A permit is considered expired if no inspection has occurred within 180 days from permit issuance or 180 days from the last inspection approval of any permit associated with the project. The applicant may request a one-time extension of 180 days.




There is no statute of limitations on illegal construction. Contact the Building Division to legalize work done without permits.



New building construction requires building permits.

i Always call to find out if you need a permit.

Permits that do not require plan review are listed on Handout No. 1-2, "To Obtain a Permit," available from the Permit Center or on the Building Division's website.

 Most plans must be signed by a California registered engineer or architect. Consult the Building Division for exceptions to this regulation.

An authorized representative of the design professional who prepared the plans must be present at the Express Plan Check appointment.

Building Inspections

Applicants must have a valid permit before requesting inspection services. Inspections are necessary to ensure that all of the appropriate codes and structural, zoning, health, safety, and access regulations are met. The Building Division has produced a number of inspection checklists that identify the most common code violations for a variety of projects. Some building projects may require the issuance of a Certificate of Occupancy before the building can be occupied.

2-5. Public Works

Most construction in the City of San José requires approval from the Plan Implementation Division of the Department of Planning, Building, and Code Enforcement. During this approval process, the Department of Public Works reviews all aspects of a project that involve public facilities and affect the public right-of-way (i.e. traffic signals, streets, sewers, overhead utilities, streetlights, backup and median island landscaping). In addition to public facilities, Public Works also reviews on-site grading, erosion control, and conformance with flood and geologic hazard zone requirements. After reviewing the project, Public Works will recommend conditions that should be placed on the Planning permit. Any conditions that are placed on a permit by Public Works must be met before a Building permit will be issued.

Public Works' Role in the Development Process

Development applications are first submitted to the Planning Division, which will automatically forward those applications to Public Works' Development Services Division for review. Development Services Division staff then will review and analyze projects for compliance with, or impacts on, the following list of subject areas:

- Traffic impact analysis (conformance to the City's level of service policy, VTA, and area-wide development policies);
- Geology, grading and drainage, and erosion control requirements;
- Flood zone regulations;
- Street improvements (such as surface improvements, storm and sanitation, street lights, traffic signals, street trees, and landscaped median islands);
- Private streets (conformance to the Common Interest

A Community Guide

- Development Ordinance);
- Street and easement dedications;
- Sewage and land area fees;
- Undergrounding of overhead utilities;
- Assessment districts; and
- Roadway geometry

Those aspects of a development application reviewed by Public Works primarily are focused on the existing and proposed public infrastructure necessary to support a proposed project, as well as any grading necessary to develop the site.

Permits, Processes, and Fees

Depending on the project and/or the conditions set in the approved Planning permit, the following types of permits, processes, and fees may be needed in order to fulfill Public Works requirements:

Public Improvement Plans and Agreements (also known as major or minor plans): For the construction of public street improvements, including any mitigation identified in the traffic impact analysis report.

Private Street Improvement Plans: For construction of streets/driveways that will be privately maintained by a homeowner's association.

Tract/Parcel Map: Used to subdivide property.

Grading Permit/Erosion Control Plan: Regulates the on-site grading of the project and ensures that the site is protected from erosion during the winter months.

Geologic Hazard Clearance and State's Seismic Hazard Conformance: Ensures that all geologic hazard mitigation requirements are addressed.


Revocable Encroachment Permit: Allows temporary use of, and construction in, public streets.


Public Street or Easement Vacation: Used to abandon public streets or easements.

Private Utility/Trench Permit: Allows private contractors to install facilities on behalf of franchised utility companies, such as cable providers, telephone companies, etc.

Lateral Permit: Allows private contractors to install storm or sanitary sewer lateral connections to a public storm or sanitary sewer main.

Parkland Agreement: Allows the applicant to delay the payment of park fees for up to one year or until the first building permit is issued, whichever comes first.

 To ensure a quick and effective review of an application, it is important that plans detail all of the public improvements adjacent to the project, as well as the on-site grading needed to develop the site. Generally, the more detailed a plan is, the easier and quicker it is to review.

 For information on how these regulations, fees, and processes affect a specific project, please contact the Building Division's One-Stop Counter.

Notice of Park Fee Payment: Used to notify the Building Division of the amount of park fees to collect for new residential development.

Flood Elevation Certificate: Ensures buildings/structures constructed in flood hazard zones meet Federal Emergency Management Agency (FEMA) requirements.

Assessment District Creation: Allows a group of private landowners to jointly construct significant public street improvements and infrastructure.

Additional Fees

Public Works also may require the payment of fees for the situations described below:

Arterial Reimbursement Fee: Due if the City used public funds to improve a property's frontage prior to development of the property.

Undergrounding Fee: An in-lieu fee that contributes towards the undergrounding of overhead utilities at a later date.

Sewer Area Fees: Fees collected for the development of storm and sanitary sewer infrastructure.

Sewage Treatment Plant Fee: Collected to purchase capacity at the City's sewage treatment plant. Fee is based on the proposed use of the site.

North San José Deficiency Plan Fee: Due if the project is located in the North San José Deficiency Plan area.

Traffic Signal/Street Improvement Contribution: Collected as a contribution towards the construction of future traffic signals or street improvements (i.e. median islands, road widening).

2-6. Code Enforcement

The Code Enforcement Division of the Department of Planning, Building, and Code Enforcement exists to work with San José residents in regulating and enforcing the City's Municipal Code and land use requirements. By working with residents, the Code Enforcement Division seeks to promote and maintain a safe and desirable living and working environment throughout the City.

Areas of Responsibility

To fulfill its mission of promoting and maintaining a safe and desirable city, the Code Enforcement Division enforces regulations related to the following:

A Community Guide

- Conditions of an existing structure that constitute a clear and present danger to the public;
- Building code violations (building, plumbing, electrical, mechanical, etc.), including construction or change of occupancy without permits;
- The San José Municipal Code, Title 17, relating to housing (minimum standards for safe and sanitary housing);
- Zoning Ordinance (Title 20) requirements relating to land use, conformance with Planning permits, removal of unpermitted structures and uses, home occupations, and garage sales;
- Weeds on private or developed property;
- Required swimming pool fences;
- Graffiti;
- Signs, including signs in the public right-of-way, failure to have required permits, illegal inflatable displays, balloons, and pennants;
- Inoperable and abandoned vehicles on public streets and private property;
- Impermissible home auto repairs;
- Abandoned or unsightly personal property on private and public lots (old furniture, car parts, appliances, etc.);
- Lawn parking;
- Early set out of yard trimmings;
- Illegal dumping;
- Smoking in enclosed public places; and
- Water waste.


Enforcement Method


While the Code Enforcement Division seeks to enforce regulations dealing with the above outlined issues in many ways, in most cases the person responsible for a violation is first given an opportunity to voluntarily comply with the law and correct the situation. Other methods of enforcement are outlined below:

Administrative Citation: This remedy is designed to address minor violations. Fines increase with each additional offense.

Administrative Remedies: This remedy is used for major violations. Fines can be as much as \$2,500 per day. Administrative fees also may be assessed.

Abatement: This remedy is used where the City needs to take action to abate a nuisance. Typically, the City will hire a private contractor to either demolish or board and secure a structure, or to clean a property of

 If unsure of whether a neighborhood association exists in a neighborhood, a resident may call the San José Neighborhood Development Center (telephone: 408-723-4114) for the name of a neighborhood contact person.

 To file a complaint, call (408) 277-4528. For abandoned vehicles, call (408) 277-5305.

junk and debris.

Judicial Remedies: These remedies are used where it is determined that other remedies will not succeed. The two judicial remedies used most often by the City are criminal prosecution and civil injunctions (court orders). The City occasionally will forward a Code Enforcement case for mediation to the Santa Clara County Office of Human Relations at (408) 299-2206.

Citizen Reporting

A resident of San José seeking relief from conditions of a property in the community has the following options:

1. Make contact with the responsible person. First, if he or she feels comfortable doing so, a resident should attempt to reconcile the situation by contacting the responsible person and describing his or her perception of the problem. In addition to describing how the situation is perceived, a discussion of how the problem affects the neighborhood, and possible solutions, should be conducted.

2. Attend neighborhood association meetings. This allows residents to get involved with solving recurring neighborhood problems.

3. File a complaint with the Code Enforcement Division. All information is kept confidential, though anonymous complaints are not accepted. Appropriate action will be taken on all complaints.

Typically, those cases that affect the public at large and constitute a health and safety problem will be handled first. Other cases may remain open for 30 or more days.

For more information on the above listed code enforcement options, or to file a complaint, call the Code Enforcement Division at (408) 277-4528).

2-7. Public Facilities

All public facilities that are to be constructed within the City of San José are first identified in the Capital Improvement Program (CIP) plan. CIP projects either directly or indirectly result in the construction of capital improvements and can be classified in two general categories:

Construction Projects: Projects that lead to the construction of

A Community Guide

capital improvements. These projects are funded by the City and are typically awarded to a contractor through a competitive bidding process. However, projects can also be built by other jurisdictions or entities through an agreement.

Non-Construction Projects: Projects that indirectly lead to the construction of capital improvements, such as feasibility studies and master planning efforts.

The City develops, or contracts to develop, capital improvements in seven main categories known as City Service Areas (CSA). The development process for each type of CSA varies, depending on the CSA and the type of project being developed. Community involvement, however, is encouraged for all project types. To find more information on current or upcoming CIP projects, including information on community meetings or other opportunities for public involvement, a resident may contact the Department of Public Works or visit the Department's website (<http://www.sanjoseca.gov>).

City Service Areas (CSAs)

For more information on CSAs, please visit <http://www.sanjoseca.gov/csa.html>.